The second question was regarding the countries which have adopted this Model Law for their domestic conciliation and arbitration. I have a presentation on the draft Swedish Arbitration Act and they have stated here, at page seven, that this Act shall apply equally to domestic and international arbitrations. Similarly, I have this Netherlands Act and at page one itself it states that the Dutch Legislature did not consider it necessary to provide for a separate law dealing with international arbitration, and it was felt that the well-conceived regulations for domestic arbitration would be equally appropriate for international arbitration. So, they have adopted one single place of legislation both for domestic as well as for international arbitration.

These are the explanations that I would like to give, so far as that provision is concerned and, to that extent, I beg to be corrected in so far as the statement which I gave yesterday is concerned.

MR. CHAIRMAN : The question is :

"That the Bill to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : The House will now take up clause by clause consideration of the Bill.

Clause 2 to 33

MR. CHAIRMAN : The question is :

"That clauses 2 to 33 stand part of the Bill.

The motion was adopted.

Clauses 2 to 33 were added to the Bill.

MR. CHAIRMAN : Shri Banatwalla, would you like to move your amendment to clause 34?

SHRI G.M. BANATWALLA (Ponnani) : Sir, in deference to the wishes of the hon. Minister, I do not propose to move the amendment.

SHRI RAMAKANT D. KHALAP : Sir, i am grateful to Shri Banatwalla.

MR. CHAIRMAN : The question is:

"That clauses 34 to 86 stand part of the Bill."

The motion was adopted.

Clauses 34 to 86 were added to the Bill.

MR. CHAIRMAN : The question is :

"That the First Schedule stand part of the Bill."

The motion was adopted.

The First Schedule was added to the Bill.

MR. CHAIRMAN : The question is :

"That second schedule and the Third schedule stand part of the Bill."

The motion was adopted.

The Second Scheduled and the Third Schedule were added to the Bill.

MR. CHAIRMAN : The question is :

"That clause 1, the Enacting formula, the Preamble and the Title stand part of the Bill."

The motion was adopted.

Clause 1, the Enacting Formula, the Preamble and the Title were added to the Bill.

SHRI RAMAKANT D. KHALAP : Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted

14.10 hrs.

STATUTORY RESOLUTION RE : DISAPPROVAL OF EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) THIRD ORDINANCE, 1996

AND

EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) BILL

[English]

MR. CHAIRMAN : The House will take up Item No. 22 and 23.

The House will take up the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1996, as passed by the Rajya Sabha.

I have to inform the House that the President has, in pursuance of Clause 3 of Article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill and passed by the Rajya Sabha.

Prof. Prem Singh Chandumajra - not present.

Shri Girdhari Lal Bhargava.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : I rise to oppose the tendency of the Government to promulgate ordinances and not the provisions of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill. Prior to this session 11 ordinances were promulgated, some of which are either paneling in Lok Sabha or the Rajya Sabha. My submission is

that ordinances should be promulgated only in exceptional circumstances. The President of India should not be bothered so frequently. It appears you are able to convince the President of India about the urgency of the legislative measure and is this manner you misuse the powers vested in Rashtrapati ji. This is the reason that I oppose the tendency of frequent promulgation of Ordinances.

The hon. Minister was once a part of the Opposition but has now crossed the floor and joined the treasury benches. I would appeal to him not to sully his name because ultimately he will have to came back to the opposition. As I had enunciated earlier, J.D. Government means July to December Government and in the new year, he will have to come to opposition benches and oppose the tendency to promulgate ordinances. But once we occupy the treasury benches, we would occupy them permanently and we write let you come there. Therefor, make hay while the sun shines i.e. as long as you are in the treasury benches.

We have observed that during the Zero House you criticise the Government. If out of 13 sons of the Government, 2-4 sons defected, the Government would definitely fall, resulting in elections. After the election, you will not be able to came to power. The best course for you is to keep silent. On the one hand you criticise and oppose the Government and on the other hand you want to enjoy the fruits of power also. Now you stand exposed before the public about you paradoxical tendencies.

Basically, I oppose the tendency of the Government to promulgate ordinances and the least I expect from my erstwhile comrades in the opposition is that they should refrain from this tendency and should come with the Bill directly. I hope the Government would at best concede this demand.

As regards the Bill, Government has introduced a good pension scheme which is otherwise a new schemes and is being introduced for the first time. But the credit for introducing this scheme goes to the former labour minister of the Congress Government. He has once said that he would introduce this scheme only if all the trade unions approve it unanimously. He had actually thrown a challenge to the trade unions. And this very Bill has now been introduced in the form of an ordinance. But the credit for bringing this piece of legislation has been grabbed by you.

The new pension scheme mooted for non Government employees has become a subject matter of controversy not only between the Government and the trade unions on the one hand but has also spoiled off controversy between the trade unions. The new pension scheme envisages division of the provident fund into two parts and one part of he provident fund would credited in a different account which would ultimately be paid to the employee as pension. My suggestion is that a trust should be formed to handle the amount deposited in the form of pension. The workers representatives should also be included in the trust. This scheme can succeed only if my suggestion is followed.

I do not know how for the promulgation of the Ordinances has benefited the employees. But a suggestion has come from several quarters that the schemes should be voluntary and this is the demand of the workers also. I hope the hon. Minister would clarify the point in his reply.

INTUC is a Congress supported trade union and it has supported this scheme with reluctance. They are apprehensive that this scheme may land them in trouble.

The Bill envisages three types of Pensions. The first part deals with superanunation pension. This scheme will benefit the employees who have rendered 20 years service and refire the age of 58. The second scheme is known as retirement pension which will benefit those employees who have completed 20 years service but have sought early retirement or resigned before the age of 58. The third scheme is known as short pension which will be applicable to employees who have rendered 10-20 years service but are not receiving any pension.

This Bill was actually referred to the standing committee of Parliament. But the Congress party brought this Bill even before the standing committee submitted its report the order the win the votes of unorganised labour in the ensuing elections by showing them the carrot of pension. But this hasty step of the Government boomeranged and they failed to win the votes. But there is a barking fear in the hearts of the employees that they may not get back the amount deposited by them by way of pension. They are apprehensive that they may lose their hard earned money. Government must keep in mind all these factors before taking a final decision.

Sir, the present Government is an extension of the Congress Party and are burdened with its legacy. There can be no two opinions that in principle the pension scheme for unorganised Labour is a commendable step irrespective of Intra Trade union differences on the subject or difference of opinion between the Government and the Trade unions. The Government should pay honest attention to the welfare of factory workers and the unorganised labour.

Mr. Chairman, Sir, if the hon. Minister gives a solemn understanding that they will not bring ordinances, I will withdraw my amending Resolution. Besides, I can consider withdrawal of my Resolution of the Government promises to work in the interest of workers.

I move :

> "That this House disapproves of the Employees' Provident Funds Miscellaneous Provisions (Amendment) Third Ordinance, 1996 (No.24 of 1996) promulgated by the President on 20 June, 1996"

THE MINISTER OF LABOUR (SHRI M. ARUNACHALAM) : Sir, I beg to move :

> "That the Bill further to amend the Employees'

Provident Funds and Miscellaneous Provisions Act, 1952, as passed by Rajya Sabha, be taken into consideration."

Sir, I am making a brief reply to my hon. colleague Shri Bhargava who raised about proclamation of Ordinances. He is well aware that the Ordinances are promulgated by the hon. President on the advice of the Council of Ministers on the issue of urgent public importance at the time when Parliament is not in Session and the issues being urgent cannot wait. It is sparingly used.

KUMARI MAMATA BANERJEE (Calcutta South) : Sir, I am on a point of order.

MR. CHAIRMAN : Under which Rule?

KUMARI MAMATA BANERJEE : Sir, It is under Rule 110.

It is a fact that when Parliament was not in Session, the President hasd given his consent for the ordinance. But there are some difference between the trade unions themselves. And, the trade unions are not in consensus about this Bill.

Sir, my point of order is very clear that the Government can withdraw this Bill under Rule 110. The Government should not do it hurriedly because there may be some options. Sir, it should not be compulsory.

MR. CHAIRMAN : There are certain conditions but the condition you are mentioning is not valid.

KUMARI MAMATA BANERJEE : If the Chair thinks, under rule 110, there is a provision.

MR. CHAIRMAN : No such condition is there.

Anyway, Mr. Minister you carry on.

SHRI M. ARUNACHALAM : Sir, as the hon. Members of the House will be aware, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for institution of compulsory Provident Fund and Deposit-Linked Insurance Fund for the benefit of employees in factories and other establishments. These schemes constitute the main source of income, security for workers in oldage and to their families and dependents in the event of their untimely death. Our Provident Fund Scheme is one of the largest schemes in the world in terms of coverage and other establishments employing 20 or more persons. As on 31st March, 1996, the total number of establishments covered was about 2.64 lakh while the number of subscribers was 19.5 million.

14.24 hrs.

(Mr. Speaker *in the Chair*)

Sir, the Family Pension Scheme was introduced in 1971 but it has been found wanting as it did not provide :-

(i) pension to a member on superannuation or on retirement;

(ii) pension to the family on death after superannuation or retirement;

(iii) pension on permanent total disablement; and

(iv) children/orphan pension. It did not provide pension to children or orphan.

Sir, in the field of Social Security, the main endeavour of the Government has been to expand the coverage, to improve the benefits and to provide prompt services in the subscribers.

In furtherance of these objectives, in August, 1990 the Central Board of Trustees had set up a Tripartite Committee to draft a suitable Pension Scheme for the EPF subscribers covered under the EPF and MP Act.The Committee submitted its report in December, 1990. The Central Board of Trustees approved the Scheme and recommended it to the Central Government for acceptance. The Central Government examined the proposal keeping in view the needs and aspirations of the working class and decided to amend the EPF and MP Act for the purpose of empowering the Central Government to frame an Employees' Pension Scheme. Necessary Amendment Bill in this regard was introduced in the Rajya Sabha on 29.3.1993. The Bill had been pending in that House for over three years. Meanwhile a large number of workers subscribing to the EPF were retiring without the benefits of pension. A number of representations from various quarters were received for expediting implementation of the pension scheme. Keeping in view the aspirations of the working class and long time-lag in the matter, the President was pleased to promulgate an Ordinance on 17.10.1995 so as to give effect to the provisions of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1993 with certain official amendments.

Under the Employees' Provident Funds and Miscellaneous Provisions Act amended by the ordinance, the Government has framed and notified the Employees' Pension Scheme for implementation with effect from 16.11.1995. The scheme inter-alia provides as under :-

Monthly pension payable :-

(a) to the member on superannuation/retirement

(b) to the member on permanent total disablement and

(c) to the family (including children) upon :-

(i) death of the member in service;

(ii) death of the member after superannuation /retirement;

(iii) death of the member after permanent total disablement.

Under the Employees' Pension Scheme, neither the employees nor the employers are required to make any additional contribution to the Pension Fund. The Pension Fund has been constituted with the corpus of the Family Pension Fund and diversion of the Employers' share of PF contribution limited to 8.33 per cent of the subscriber's wage from 16.11.1995. The employees' share and the balance of the employers' share would

continue constituting the corpus of the Provident Fund. The employees can draw advance from this fund as at present. Thus, there will be no change in the present scheme of withdrawal from the Provident Fund in the case of bonafide requirements of the employees.

The minimum contributory service to become eligible for pension is ten years. The Pension Scheme is compulsory for all the members of the existing Family Pension Scheme. The employees who are not members of the Family Pension Scheme have an option to join the new Pension Scheme. The Family Pension Scheme, 1971 along with its assets has been merged with the new Pension Scheme, but the beneficiaries of the Family Pension Scheme will continue to get their benefits from the new Pension Fund.

The amount of pension payable to the employees in different contingencies will vary from case to case depending upon the pensionable salary and pensionable service of the member. With 33 years contributory service the normal superannuation pension will be 50 per cent of the pensionable salary.

The new Pension Scheme was initially conceived as a self-supporting scheme. However, on the demand of trade unions the Government has also agreed to contribute to the scheme at the rate of 1.16 per cent of the wage.

The EDLI Scheme, 1976 will continue as at present. However, it is proposed to discontinue the contribution of the Central Government which is about Rs.30 crore towards the EDLI Scheme as the EDLI Fund has got adequate surplus fund and is viable.

The Central Government may grant exemption to any establishment or class of establishments whose employees are in receipt of the benefits under any pension scheme which is similar or superior to the Pension Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

The provisions of the Bill and the Scheme have been examined and approved by the Standing Committee of Parliament on Labour and Welfare, subject to certain recommendations, most of which have already been accepted and incorporated in the Scheme.

Detailed discussions have been held with the representatives of the Central trade union organisations, both before and after the introduction of the Scheme and most of the suggestions made by them have already been accepted.

MR. SPEAKER : How many more minutes would you take? At 2.30 p.m. we were to take up the next item of business.

SHRI M. ARUNACHALAM : Sir, I will take one or two more minutes.

MR. SPEAKER : It is all right.

SHRI M. ARUNACHALAM : Some of the important suggestions incorporated on the basis of discussions with the Central trade Union organisations include the following; facility of commutation of pension; uniformity in entitlement of pension to children irrespective of gender; provision of annual evaluation of the Pension Fund and revision of pensionary benefits as against the initial provision of three years; and guaranteed payment of pension even in the event of default on the part of the employer in the matter of making PF contribution ...*(Interruptions)*

Of course, some hon. Members have given amendments to the Act. It has, however, not been found feasible to allow individual options in view of the fact this Scheme is compulsory for all the employees who were members of the Employees Family Pension Scheme, 1971...*(Interruptions)*

The suggestion regarding individual option to the members has been examined. It has, however, not been found feasible to allow individual option in view of the following.

The Scheme is compulsory for all the employees who were members of the Employees Family Pension Scheme, 1971...*(Interruptions)*

Please listen to me. The benefits which were available to them under the ceased Employees Family Pension Scheme are being carried over to the new Scheme. It is, therefore, necessary to keep them covered under the new Scheme as well. For the Pension Scheme to be sustainable, it is necessary that there is definiteness about the contribution to the Pension Fund. The actuarial calculations will just not be feasible if individual options were given because in that event there would be no definiteness. Collectivity and not individuality is the essence of social security. In keeping with this spirit, a provision has been made in the scheme for grant of exemption to the establishments if they have their own comparable or superior Pension Scheme.

Similarly, the suggestion regarding linkage of pensionary benefits with the Consumer Price Index has not been found feasible because of the following reasons. The Pension Scheme is a contributory scheme and in such contributory schemes any open ended indexation is not possible. Increase in pension from time to time would be possible only if the Fund position so permits. The Scheme, as initially notified, had a provision for the evaluation of the Pension Fund at an interval of three years. On the demand of the Central trade union organisations, the Government have already decided to have the valuation of the Pension Fund and review of all pensionary benefits on an annual basis. The Fund position so permitting, the employees are expected to get some increase in pension every year.

As I already mentioned, the Scheme has already been notified and has been under employment since the 16th Novemeber, 1995. With the promulgation of the Ordinance, the Employees' Family Pension Scheme, 1971 has ceased to be operative and the pensionary benefits to about 1.5 lakh families, which were earlier available under the ceased Employees' Family Pension Scheme, are being given from out of the Pension Fund.

MR. SPEAKER : Mr. Minister, you can keep some of those points for the reply at the end of the debate.

KUMARI MAMATA BANERJEE : Sir, the i ndividual rights cannot be curbed. There must be some option. I am not saying that the Bill is bad...

(Interruptions)

MR. SPEAKER : We have not started the debate on ihe Bill.

(Interruptions)

MR. SPEAKER : Mr. Minister, I think that you can resume at six o'clock after the Private Members' Business is over.

[Translation]

SHRI MOHAN RAWALE (Mumbai South Central) : Sir, today is the last-day of the session. It may be taken up went time on several Members have opposed it.

[English]

MR. SPEAKER : Otherwise, the Ordinance will lapse.

(Interruptions)

MR. SPEAKER : Kindly cooperate with me.

(Interruptions)

MR. SPEAKER : You see, it was discussed in the meeting of the Business Advisory Committee. Actually, what was agreed upon in that meeting was that as far as possible we should pass it without discussion.

But then Shri Somnath Chatterjee requested that from their side they would like to speak for fifteen minutes on this Bill. That was the understanding

(Interruptions)

SHRI RAM NAIK (Mumbai North) : But it should not be after six o'clock...*(Interruptions)*

MR. SPEAKER : But this Ordinance would lapse, if we do not pass it today.

(Interruptions)

MR. SPEAKER : Mr. Naik, please cooperate in this matter.

(Interruptions)

SHRI RAM NAIK : You can promulgate one more Ordinance. What is there? Already, the Ordinance had been issued for four times. There can be one more Ordinance...*(Interruptions)*

MR. SPEAKER : It has been passed by Rajya Sabha. So, another Ordinance will not be proper.

SHRI RAM NAIK : They should have brought this Bill in advance. Nobody is going to be deprived. You can bring in another Ordinance How do you expect it to be passed without discussion? We cannot do that. We are not going to surrender our rights of whatever we want to say...*(Interruptions)*

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANTA JENA): We had a discussion in Rajya Sabha on this issue. All the political parties supported this Bill, except CPI (M), CPI (M) had a different stand. That is why they said that they would speak for only fifteen minutes...*(Interruptions)*

KUMARI MAMATA BANERJEE (Calcutta South) : Sir, our point is very clear. The employees are demanding for this option...*(Interruptions)*

SHRI P.R. DASMUNSI (Howrah) : If CPI (M) did not support this Bill, it does not mean that only CPI (M) Members would speak for fifteen minutes and others would not speak on this Bill...*(Interruptions)*

SHRI SRIKANTA JENA : No, I think, I am mistaken ...*(Interruptions)*

MR. SPEAKER : I think that there should be a debate. The only problem is that if this Bill is not passed today, then the Ordinance would lapse. It is not good to promulgate another Ordinance, when it is already passed by Rajya Sabha. It will not be correct...

(Interruptions)

SHRI RAM NAIK : But the Government is functioning like this...*(Interruptions)*

MR. SPEAKER : Mamataji, since I was the Minister of Labour, I know about this Bill very well. That is why I am telling you that this had been discussed for nearly 1,000 hours with all the parties concerned for many years. This is the product of a tripartite committee headed by the leader of AITUC. When the Bill was introduced, there were some objections. So, we called the meeting of all the political parties. All political parties had unanimously suggested for amendments for the Government to consider. We accepted it and amended it. So, there had been a lot of discussion on this Bill.

But the House must discuss it. I know that the House must discuss it. But it can be discussed around six o'clock.

(Interruptions)

[Translation]

SHRI MOHAN RAWALE (Mumbai South Central) : An ordinance on the subject was promulgated earlier also about which the Members were critical that it has been brought in haste It may damage the interest of the workers. All the Members must get time to speak.

[English]

MR. SPEAKER ; We shall now resume discussion on CTBT under Rule 193. Shri George Fernandes was on his legs.

[Translation]

SHRI MOHAN RAWALE : Ordinances have been promulgated since 17 October, 1995 and on two occasions ordinances have lapsed.

[English]

MR. SPEAKER : We will complete it today

(Interruptions)

MR. SPEAKER : One hour will be enough. I think that 6 p.m. to 7 p.m. will be the ideal time.

(Interruptions)

MR. SPEAKER : No other Bill will come up. Only this Bill will be taken up.

(Interruptions)

KUMARI MAMATA BANERJEE : Sir, you suggest that the Bill should go to the Select Committee ...*(Interruptions)*

MR. SPEAKER : I think, for that we have some understanding. He will have to move the motion. It will take one minute as desired by the House.

(Interruptions)

SHRI SRIKANT JENA : Sir, the RPA (Amendment) Bill will be deferred. The Minister of Law has already given notice to defer this. And on the Scheduled Tribe Bill, whatever suggestions that have come the Government would agree to go through the suggestions.

SHRI RAM NAIK : I think, I must clarify. When the hon. Member asked, it has been said that no other Bill will be taken up for discussion and only Pension Bill will be taken up. He is saying that the Constitution (Scheduled Tribes) Order (Amendment) Bill will also be taken up.

MR. SPEAKER : What he is saying is that the sense of the House will prevail. Looking at the number of amendments, it appears that all the Members of the political parties wanted it to be referred to the Select Committee. He will agree to that.

SHRI RAM NAIK : That was the Ordinance. When that Ordinance can be referred to the Select Committee, why is there so much insistence about this Bill? We do not understand it.

MR. SPEAKER : We have to be selective.

[Translation]

SHRI MOHAN RAWALE : Just now you informed us that this had been discussed for nearly 1000 hours with all the parties concerned, trade unions etc. Then how is it possible to discuss it within one hour? Each Member can speak for 1 hour on the subject.

[English]

MR. SPEAKER : Eighteen million workers are going to get the pension. It is not a small thing. Now, Shri George Fernandes will speak.

(Interruptions)

SHRI AJOY MUKHOPADHYAY (Krishnagar) : You may take up the discussion on CTBT at six o'clock. And you continue this discussion now.

MR. SPEAKER : No. That has been discussed. Now, we will take up CTBT. It has ben listed for 2.30 p.m. in the List of Business.

(Interruptions)

MR. SPEAKER : That is why we should not waste any more time.

14.41 hrs.

DISCUSSION UNDER RULE 193

INDIA'S POSITION WITH REGARD TO CHOMPREHENSIVE TEST BAN TREATY (CTBT)

[Translation]

SHRI GEORGE FERNANDES (Nalanda) : Mr. Speaker, Sir, the discussion on the aforesaid subject had started day before yesterday but I am sorry to point out that the House failed to treat the subject with the required seriousness.

Yesterday, the hon. Minister, while initiating the discussion had cited the names of the people whom he met in Jakarta and one of them was Warren Christopher, Secretary State Secretary, U.S.A. Our Minister for External Affairs did not reveal the contents of his discussions with Warren Christopher. But whatever be the contents of the discussion, one thing is clear from the Press reports published to day that our Minister of External Affairs could not impress on U.S.A.'s Secretary State the view point of India.

Yesterday, Warren Christopher made some observations before the Senate, Congress or the Joint Committee which cannot be tolerated in this country.

[English]

> "India is the only country which was creating problems by insisting on a time-table for total nuclear disarmament."

[Translation]

In other words if we demand complete ban on atomic tests and complete disarmament, we are being dubbed as a country creating problems. In their outburst more threatening postures are evident:

[English]

> "The United States was equally determined not to allow a single nation...

[Translation]

i.e. India (as no other country is referred here)

[English]

> "...to prevent us from reaching a Test Ban Treaty and open it for signature by all nations in September."

[Translation]

It is a threat to India. I do not want to repeat